



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTHWEST REGIONAL OFFICE
355-A Deadmore Street, Abingdon, Virginia 24210
(276) 676-4800 FAX (804) 698-4178
www.deq.virginia.gov

Ann F. Jennings
Secretary of Natural and Historic Resources

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DEQ SWRO

David K. Paylor
Director
(804) 698-4000

Jeffrey Hurst
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
APPALACHIAN POWER COMPANY
FOR
CLINCH RIVER PLANT**

Registration No. 10236

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Appalachian Power Company, regarding the Clinch River Plant, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Appalachian Power Company" means Appalachian Power Company, a company authorized to do business in Virginia and its affiliates, partners and subsidiaries. Appalachian Power Company is a "person" within the meaning of Va. Code § 10.1-1300.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the Appalachian Power Company – Clinch River Plant, located at 3464 Power Plant Road, Cleveland, Russell County, Virginia.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "NSR Permit" means a minor New Source Review Permit to modify and operate an electric power generating facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to American Electric Power/Appalachian Power Company, effective January 13, 2015 and amended August 3, 2016.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a partial compliance evaluation by DEQ staff.
10. "PM-2.5" means particulate matter 2.5 micrometers or less in diameter.
11. "PM-10" means particulate matter 10 micrometers or less in diameter.
12. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
13. "SWRO" means the Southwest of DEQ, located in Abingdon, Virginia.
14. "TV Permit" means a Title V Operating Permit to operate an electric power generating facility, which was issued under the Air Pollution Control Law and the Regulations to Appalachian Power Company, effective October 11, 2017 and amended July 16, 2018, August 9, 2019, and April 20, 2021.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Appalachian Power Company owns and operates the Facility in the Russell County, Virginia. The Facility is the subject of the NSR Permit and TV Permit, which allow the company to operate the electric power generating facility.
2. On June 8, 2021, Appalachian Power Company conducted a five year performance test of the common exhaust stack for Unit 1 (CR1) and Unit 2 (CR2), as required by the TV Permit. Testing was conducted for PM-10/PM-2.5 using methods 201A/202 and for nmVOC using Methods 18 and 25A. Both units were operating on high load and utilized the common stack. The test results were submitted to DEQ on July 23, 2021.
3. On August 11, 2021, DEQ staff conducted a PCE for review of the stack test results submitted by Appalachian Power Company on July 23, 2021. Review of the submitted report demonstrated the test results for PM-10/PM-2.5 emissions were 31.99 lbs/hr for Unit 1 and 31.80 lbs/hr for Unit 2.
4. Condition No. 8 of the TV Permit and Condition No. 10 of the NSR Permit state:
“Emissions from the combustion of natural gas in the Unit 1, Unit 2, and auxiliary boilers (Reference Nos. CR1, CR2, CR4, and CR5) shall not exceed the limits specified below:...

PM-10/PM-2.5 (Units 1 and 2 (CR1 and CR2)) (per unit) 27.99 lbs/hr...”

5. 9 VAC 5-50-260(A) states: “No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of emissions limitations representing best available control technology, as reflected in any term or condition that may be placed upon the minor permit approval for the facility.”
6. 9 VAC 5-80-1180(C) states, in part: “Minor NSR permits may contain emissions standards as necessary to implement the provisions of this article and 9VAC5-50-260...”
7. 9 VAC 5-170-160(A) states, in part: “The board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law, and which are consistent with the regulations of the board. Except as otherwise specified, nothing in this chapter shall be understood to limit the power of the board in this regard. If the owner or other person fails to adhere to the conditions, the board may automatically cancel the permit or approvals. This section shall apply, but not be limited, to approval of variances, approval of control programs, and granting of permits.”
8. Va. Code § 10.1-1322(A) gives the Department the authority to issue, amend, revoke or terminate and reissue permits, and failure to comply with any condition of a permit is considered a violation of the Air Pollution Control Law.

9. On August 13, 2021, based on the results of the August 11, 2021 PCE, the Department issued Notice of Violation No. ASWRO001926 to the Appalachian Power Company – Clinch River Plant for the violations described in paragraph C(3), above.
10. On August 24, 2021, Appalachian Power Company submitted a written response to the NOV. The response detailed investigative efforts by Appalachian Power Company to determine the cause of the permit excursions identified during the June 8, 2021 stack testing and included a certificate of analysis confirming presence of an unusually high amount of inorganic condensable matter. As a result of investigative efforts and sample analyses, Facility staff reportedly balanced the urea/water concentration feed to minimize inorganic condensable matter. Stack testing for Unit 1 and Unit 2 was repeated on July 7, 2021, and test results, along with a certificate of analysis, were provided. Information regarding Unit 1 and Unit 2 run time between stack testing was also provided.
11. On September 9, 2021, DEQ staff conducted a PCE for review of the July 7, 2021 stack test results submitted by Appalachian Power Company on August 24, 2021. Review of the submitted report demonstrated the test results for PM-10/PM-2.5 emissions were 7.75 lbs/hr for Unit 1 and 7.55 lbs/hr for Unit 2.
12. Based on the results of August 11, 2021 PCE, the August 24, 2021 NOV response, and the September 9, 2021 PCE, the Board concludes that Appalachian Power Company has violated Condition No. 8 of the TV Permit, Condition No. 10 of the NSR Permit, 9 VAC 5-50-260, and 9 VAC 5-80-1180, as described in paragraph C(3), above.
13. The documentation submitted by Appalachian Power Company on August 24, 2021 verified that the violations described in paragraph C(3), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Appalachian Power Company, and Appalachian Power Company agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$18,547.20 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Appalachian Power Company shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Appalachian Power Company shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Appalachian Power Company for good cause shown by Appalachian Power Company, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. ASWRO001926, dated August 13, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Appalachian Power Company admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Appalachian Power Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Appalachian Power Company declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Appalachian Power Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Appalachian Power Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Appalachian Power Company shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Appalachian Power Company shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

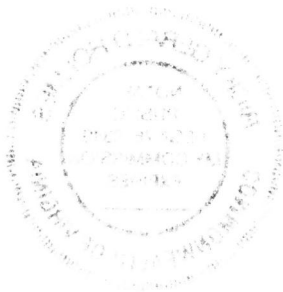
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Appalachian Power Company. Nevertheless, Appalachian Power Company agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after Appalachian Power Company has completed all of the requirements of the Order;
 - b. Appalachian Power Company petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Appalachian Power Company.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Appalachian Power Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Appalachian Power Company and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Appalachian Power Company certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Appalachian Power Company to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Appalachian Power Company.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Appalachian Power Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 29th day of November, 2021.



Jeffrey L. Hurst, Regional Director
Department of Environmental Quality

Appalachian Power Company voluntarily agrees to the issuance of this Order.

Date: 11/18/2021 By: Laura W. Coleman
Laura W. Coleman, Plant Manager
Appalachian Power Company

Commonwealth of Virginia

City/County of Russell

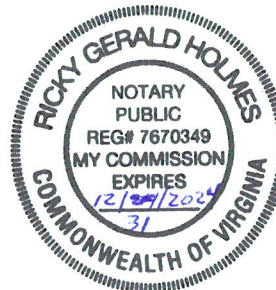
The foregoing document was signed and acknowledged before me this 18TH day of
NOVEMBER, 20 21, by LAURA W. COLEMAN who is
PLANT MANAGER of Appalachian Power Company, on behalf of
the corporation.

Ricky Gerald Holmes
Notary Public

7670349
Registration No.

My commission expires: 12/31/2024

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. **Appalachian Power Company shall:**

- a. Perform testing of the urea/water concentration feed balance for Unit 1 (CR1) and Unit 2 (CR2) at a minimum of once for each month during which at least one unit operates for 48 or more continuous hours. The testing period shall begin upon execution of this Order and run through July 2022. Test results shall be submitted to DEQ for review. Upon completion of the testing period, DEQ will re-evaluate the testing requirement and determine if an extension is necessary.
- b. Repeat stack testing for the Unit 1 (CR1) and Unit 2 (CR2) common stack for PM-10/PM-2.5 emissions prior to the end of July 2022, and submit the testing results to DEQ for review. In addition, a stack test protocol must be received by DEQ at least 30 days prior to testing.

2. **Certification of Documents and Reports**

In accordance with 9 VAC 5-20-230(A), in all documents or reports submitted to DEQ pursuant to this Consent Order, Appalachian Power Company, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. **DEQ Contact**

Unless otherwise specified in this Order, Appalachian Power Company shall submit all requirements of Appendix A of this Order to:

Crystal C. Bazyk
Enforcement and Air Compliance/Monitoring Manager
VA DEQ – SWRO
355-A Deadmore Street
Abingdon, Virginia 24210
(276) 676-4829
crystal.bazyk@deq.virginia.gov